

AMENDED IN SENATE APRIL 9, 2014

SENATE BILL

No. 1405

Introduced by Senator DeSaulnier

February 21, 2014

An act to amend Sections 17609, 17610, 17611, and 17612 of, and to add Sections 17611.5 and 17614 to, the Education Code, and to amend Sections 13181, 13182, 13183, and 13187 of, and to add Section 13186.5 to, the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1405, as amended, DeSaulnier. Pesticides: school facilities.

(1) Existing law, the Healthy Schools Act of 2000, requires each schoolsite to maintain records of all pesticide use at the schoolsite for a period of 4 years and to make these records available to the public upon request, as specified. Existing law authorizes a schoolsite to meet these requirements by retaining a copy of the warning sign posted for each pesticide application, as specified, and recording on the copy the amount of pesticide used. Existing law requires a schoolsite or school district to identify an individual, known as a school designee, to carry out the requirements of the act.

This bill, if a school chooses to use certain pesticides, would require the school designee, at the end of each school year, or more often at his or her discretion, to submit to the Director of Pesticide Regulation a copy of the records, as specified, of all pesticide use at the schoolsite. The bill, if a school chooses to use certain pesticides, would require the school designee to develop and post on the Internet Web site of the schoolsite an integrated pest management plan for the schoolsite or school district, except if the schoolsite does not maintain an Internet Web site, the school designee would be required to include the integrated

pest management plan with a certain annual notification sent to parents or guardians of pupils enrolled at the schoolsite. The bill would authorize a school designee to do these things related to an integrated pest management plan if the school does not choose to use certain pesticides.

(2) Existing law requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites that voluntarily choose to do so, excluding privately operated child day care facilities. For these schoolsites, existing law requires the department to establish an integrated pest management program for schoolsites. Existing law, in establishing the program, requires the department to develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite and develop a model program guidebook, as specified, that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. Existing law provides that a violation of the laws, and the regulations adopted pursuant to those laws, relating to pesticides is generally a misdemeanor.

This bill would require the Department of Pesticide Regulation to develop a training program to train any person who plans to apply pesticides on a schoolsite, and would require the training program to cover the safe use of pesticides and integrated pest management. The bill would ~~authorize~~ *require* the training program to be ~~developed as a web-based training through a 3rd party.~~ *provided by the department or an agent authorized by the department.* The bill would also require any person hired to, or who in the course of his or her work plans to, apply a pesticide at a schoolsite subject to the act, to annually complete a training provided by the department or an ~~agency~~ *agent* authorized by the department. The bill would require the training to include safe pesticide use and integrated pest management. Because failure to complete the training would be a crime, the bill would impose a state-mandated local program.

(3) This bill would make conforming changes and various nonsubstantive changes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 17609 of the Education Code is amended
to read:

17609. The definitions set forth in this section govern the
construction of this article unless the context clearly requires
otherwise:

(a) “Antimicrobial” means those pesticides defined by the
Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec.
136(mm)).

(b) “Crack and crevice treatment” means the application of
small quantities of a pesticide consistent with labeling instructions
in a building into openings such as those commonly found at
expansion joints, between levels of construction, and between
equipment and floors.

(c) “Emergency conditions” means any circumstances in which
the school designee or a property owner of a property where a
privately operated child day care facility is located, or the property
owner’s agent, deems that the immediate use of a pesticide is
necessary to protect the health and safety of pupils, staff, or other
persons, or the schoolsite.

(d) “Integrated pest management plan” means a written plan
based on a template provided or approved by the Department of
Pesticide Regulation that outlines a strategy for integrated pest
management, as described in Section 13181 of the Food and
Agricultural Code.

(e) “School designee” or “IPM coordinator” means the
individual identified by a schoolsite or school district to carry out
the requirements of this article at the schoolsite.

(f) “Schoolsite” means any facility used as a child day care
facility, as defined in Section 1596.750 of the Health and Safety
Code, or for kindergarten, elementary, or secondary school
purposes. The term includes the buildings or structures,
playgrounds, athletic fields, vehicles, or any other area of property
visited or used by pupils. “Schoolsite” does not include any
postsecondary educational facility attended by secondary pupils
or private kindergarten, elementary, or secondary school facilities.

1 For child day care facilities, the State Department of Social
2 Services shall serve as the liaison to these facilities, as needed.

3 SEC. 2. Section 17610 of the Education Code is amended to
4 read:

5 17610. (a) It is the policy of the state that effective least toxic
6 pest management practices should be the preferred method of
7 managing pests at schoolsites and that the state, in order to reduce
8 children's exposure to toxic pesticides, shall take the necessary
9 steps, pursuant to Article 17 (commencing with Section 13180)
10 of Chapter 2 of Division 7 of the Food and Agricultural Code, to
11 facilitate the adoption of effective least toxic pest management
12 practices at schoolsites. It is the intent of the Legislature that all
13 school personnel involved in the application of a pesticide at a
14 schoolsite be trained in the safe use of pesticides and integrated
15 pest management.

16 (b) (1) (A) A property owner of a property where a child day
17 care facility is located, or the property owner's agent, who
18 personally applies any pesticides on an area listed in paragraph
19 (2) shall provide notice to the child day care facility as described
20 in paragraph (3) at least 120 hours before the application, unless
21 an emergency condition, as defined in Section 17609, exists.

22 (B) An owner of property on which a child day care facility is
23 located shall be subject to the requirement to provide notice
24 pursuant to this subdivision 30 days after it has received notice
25 from a child day care facility of its presence at the property, unless
26 the property owner, or his or her agent, received that notice
27 pursuant to paragraph (1) of subdivision (d) of Section 1597.40 of
28 the Health and Safety Code before the effective date of this
29 subdivision in which case the property owner shall be subject to
30 the notice requirements on and after the effective date of this
31 subdivision.

32 (2) This subdivision applies when a property owner or his or
33 her agent intends to personally apply pesticides on any of the
34 following:

35 (A) Inside the rented premises on which the child day care
36 facility is located.

37 (B) Upon a designated child day care facility playground
38 designated by the property owner.

39 (C) Upon an area designated for use by the child day care
40 facility.

(D) Upon an area within 10 feet of the perimeter of the child day care facility.

(3) The notice required by paragraph (1) shall include the following:

(A) The product name.

(B) The manufacturer's name.

(C) The active ingredients of each pesticide.

(D) The United States Environmental Protection Agency's product registration number.

(E) The intended date of application.

(F) The areas of application listed in paragraph (2).

(G) The reason for application.

(4) A notice of pesticide application provided to a tenant pursuant to subdivision (d) of Section 13186 of the Food and Agricultural Code shall satisfy the notice requirements of this section.

(5) If the child day care facility ceases to operate on the property, the provisions of this act shall no longer apply to the property.

SEC. 3. Section 17611 of the Education Code is amended to read:

17611. (a) Each schoolsite shall maintain records of all pesticide use at the schoolsite for a period of four years, and shall make this information available to the public, upon request, pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). A schoolsite may meet the requirements of this section by retaining a copy of the warning sign posted for each application required pursuant to Section 17612, and recording on that copy the amount of the pesticide used.

(b) (1) If a school chooses to use a pesticide not included within Section 17610.5, at the end of each school year, or more often at the discretion of a school designee, the school designee shall submit to the Director of Pesticide Regulation a copy of the records of all pesticide use at the schoolsite for the school year. The records submitted to the Director of Pesticide Regulation, including copies of the warning signs posted for each application required pursuant to Section 17612, shall include all of the following:

(A) The name of a contact person for the schoolsite.

(B) The name and address of the schoolsite, or the department code or licensed child day care facility number indicating if the

1 site is an elementary or secondary school facility, or a child day
2 care facility.

3 (C) The product name, manufacturer's name, the federal
4 Environmental Protection Agency's product registration number
5 and the amount used, including the unit of measurement.

6 (D) The date and areas of application and the targeted pest.

7 (2) The report submitted pursuant to paragraph (1) shall not
8 include pesticide use reported pursuant to subdivision (c) of Section
9 13186 of the Food and Agricultural Code.

10 SEC. 4. Section 17611.5 is added to the Education Code, to
11 read:

12 17611.5. (a) The school designee may develop and post on
13 the Internet Web site of the schoolsite an integrated pest
14 management plan for the schoolsite or the school district. If the
15 schoolsite does not maintain an Internet Web site, the school
16 designee may include the integrated pest management plan with
17 the annual notification sent to parents or guardians of pupils
18 enrolled at the schoolsite pursuant to Section 17612. The integrated
19 pest management plan shall include the name of the school
20 designee or IPM coordinator and include the pesticides applied at
21 the schoolsite by school employees and licensed pest control
22 applicators.

23 (b) If a school chooses to use a pesticide not included within
24 Section 17610.5, the school designee shall develop and post on
25 the Internet Web site of the schoolsite an integrated pest
26 management plan for the schoolsite or the school district. If the
27 schoolsite does not maintain an Internet Web site, the school
28 designee shall include the integrated pest management plan with
29 the annual notification sent to parents or guardians of pupils
30 enrolled at the schoolsite pursuant to Section 17612. The integrated
31 pest management plan shall include the name of the school
32 designee or IPM coordinator and include the pesticides applied at
33 the schoolsite by school employees and licensed pest control
34 applicators.

35 SEC. 5. Section 17612 of the Education Code is amended to
36 read:

37 17612. (a) The school designee shall annually provide to all
38 staff and parents or guardians of pupils enrolled at a schoolsite a
39 written notification of the name of all pesticide products expected
40 to be applied at the schoolsite during the upcoming year. The

notification shall identify the active ingredient or ingredients in each pesticide product. The notice shall also contain the Internet address used to access information on pesticides and pesticide use reduction developed by the Department of Pesticide Regulation pursuant to Section 13184 of the Food and Agricultural Code and may contain other information deemed necessary by the school designee. No other written notification of pesticide applications shall be required by this act except as follows:

(1) In the written notification provided pursuant to this subdivision, the school designee shall provide the opportunity for recipients to register with the schoolsite if they wish to receive notification of individual pesticide applications at the schoolsite. Persons who register for notification shall be notified of individual pesticide applications at least 72 hours before the application. The notice shall include the product name, the active ingredient or ingredients in the product, and the intended date of application.

(2) If a pesticide product not included in the annual notification is subsequently intended for use at the schoolsite, the school designee shall, consistent with this subdivision and at least 72 hours before application, provide written notification of its intended use.

(b) The school designee shall make every effort to meet the requirements of this section in the least costly manner. Annual notification by a school district to parents and guardians shall be provided pursuant to Section 48980.3. Any other notification shall, to the extent feasible and consistent with the act adding this article, be included as part of any other written communication provided to individual parents or guardians. This section shall not require the school designee to issue the notice through first-class mail, unless he or she determines that no other method is feasible.

(c) Pest control measures taken during an emergency condition as defined in Section 17609 shall not be subject to the requirements of paragraphs (1) and (2) of subdivision (a). However, the school designee or property owner shall make every effort to provide the required notification for an application of a pesticide under emergency conditions.

(d) The school designee shall post each area of the schoolsite where pesticides will be applied with a warning sign. The warning sign shall prominently display the term "Warning/Pesticide Treated Area" and shall include the product name, manufacturer's name,

1 the United States Environmental Protection Agency's product
2 registration number, intended date and areas of application, and
3 reason for the pesticide application. The warning sign shall be
4 visible to all persons entering the treated area and shall be posted
5 24 hours before the application and remain posted until 72 hours
6 after the application. In case of a pest control emergency, the
7 warning sign shall be posted immediately upon application and
8 shall remain posted until 72 hours after the application.

9 (e) Subdivisions (a) and (d) shall not apply to schools operated
10 by the Division of Juvenile Justice. The school administrator of a
11 school operated by the Division of Juvenile Justice shall notify the
12 chief medical officer of that facility at least 72 hours before *the*
13 application of pesticides. The chief medical officer shall take any
14 steps necessary to protect the health of pupils in that facility.

15 (f) This section and Section 17611 shall not apply to activities
16 undertaken at a school by participants in the state program of
17 agricultural vocational education, pursuant to Article 7
18 (commencing with Section 52450) of Chapter 9 of Part 28 of
19 Division 4 of Title 2, if the activities are necessary to meet the
20 curriculum requirements prescribed in Section 52454. This
21 subdivision does not relieve schools participating in the state
22 program of agricultural vocational education of any duties pursuant
23 to this section for activities that are not directly related to the
24 curriculum requirements of Section 52454.

25 (g) Sections 17610 to 17614, inclusive, shall not apply to family
26 day care homes or property owners of *family* day care homes, as
27 defined in Section 1596.78 of the Health and Safety Code, or their
28 agents who personally apply any pesticides.

29 (h) If pesticide is applied by a property owner or his or her agent,
30 or by a pest control operator, failure to provide notice pursuant to
31 subdivision (b) of Section 17610 or subdivision (d) of Section
32 13186 of the Food and Agricultural Code shall relieve a privately
33 operated child day care facility from the requirements of this
34 section.

35 SEC. 6. Section 17614 is added to the Education Code, to read:

36 17614. A person, including a licensed pest control applicator,
37 who, in the course of his or her work intends to apply a pesticide
38 at a schoolsite subject to this article, shall annually complete a
39 training course provided by the Department of Pesticide Regulation
40 or an agent authorized by the Department of Pesticide Regulation.

1 The training shall include safe pesticide use and integrated pest
2 management.

3 SEC. 7. Section 13181 of the Food and Agricultural Code is
4 amended to read:

5 13181. (a) Notwithstanding any other law, for purposes of this
6 article, “integrated pest management” means a pest management
7 strategy that focuses on long-term prevention or suppression of
8 pest problems through a combination of techniques such as
9 monitoring for pest presence and establishing treatment threshold
10 levels, using nonchemical practices to make the habitat less
11 conducive to pest development, improving sanitation, and
12 employing mechanical and physical controls. Pesticides that pose
13 the least possible hazard and are effective in a manner that
14 minimizes risks to people, property, and the environment, are used
15 only after careful monitoring indicates they are needed according
16 to preestablished guidelines and treatment thresholds. This
17 definition shall apply only to integrated pest management at school
18 facilities and child day care facilities.

19 (b) For purposes of this article “IPM coordinator” has the same
20 meaning as school designee or IPM coordinator, as those terms
21 are defined in subdivision (e) of Section 17609 of the Education
22 Code.

23 SEC. 8. Section 13182 of the Food and Agricultural Code is
24 amended to read:

25 13182. It is the policy of the state that effective least toxic pest
26 management practices should be the preferred method of managing
27 pests at schoolsites and that the state, in order to reduce children’s
28 exposure to toxic pesticides, shall take the necessary steps, pursuant
29 to this article, to facilitate the adoption of effective least toxic pest
30 management practices at schoolsites. It is the intent of the
31 Legislature that all school personnel involved in the application
32 of pesticide at a schoolsite be trained in the safe use of pesticides
33 and integrated pest management.

34 SEC. 9. Section 13183 of the Food and Agricultural Code is
35 amended to read:

36 13183. (a) The department shall promote and facilitate the
37 voluntary adoption of integrated pest management programs for
38 schoolsites, excluding privately operated child day care facilities,
39 as defined in Section 1596.750 of the Health and Safety Code, that

1 voluntarily choose to do so. For these schoolsites, the department
2 shall do all of the following:

3 (1) Establish an integrated pest management program for
4 schoolsites consistent with Section 13181. In establishing the
5 program, the department shall:

6 (A) Develop criteria for identifying least-hazardous pest control
7 practices and encourage their adoption as part of an integrated pest
8 management program at each schoolsite.

9 (B) Develop a model program guidebook that prescribes
10 essential program elements for schoolsites that have adopted a
11 least-hazardous integrated pest management program. At a
12 minimum, this guidebook shall include guidance on all of the
13 following:

14 (i) Adopting an IPM policy.

15 (ii) Selecting and training an IPM coordinator.

16 (iii) Identifying and monitoring pest populations and damage.

17 (iv) Establishing a community-based school district advisory
18 committee.

19 (v) Developing a pest management plan for making
20 least-hazardous pest control choices.

21 (vi) Contracting for integrated pest management services.

22 (vii) Training and licensing opportunities.

23 (viii) Establishing a community-based right-to-know standard
24 for notification and posting of pesticide applications.

25 (ix) Recordkeeping and program review.

26 (C) Develop a training program to train any person who intends
27 to apply pesticides on a schoolsite. The training program shall
28 cover the safe use of pesticides and integrated pest management.
29 The training program ~~may be developed as a web-based training~~
30 ~~provided through a third party.~~ *shall be provided by the department*
31 *or an agent authorized by the department.*

32 (2) Make the model program guidebook available to schoolsites
33 and establish a process for systematically updating the guidebook
34 and supporting documentation.

35 (b) The department shall promote and facilitate the voluntary
36 adoption of integrated pest management programs at child day
37 care facilities, as defined in Section 1596.750 of the Health and
38 Safety Code, through the following:

1 (1) Modifying the department's existing integrated pest
2 management program for schoolsites as described in subdivision
3 (a) of Section 13183 for the child day care setting.

4 (2) Creating or modifying existing educational and informational
5 materials on integrated pest management for the child day care
6 setting.

7 (3) Making the materials available to child day care facilities
8 and establishing a process for systematically updating them.

9 SEC. 10. Section 13186.5 is added to the Food and Agricultural
10 Code, to read:

11 13186.5. A person hired to apply a pesticide at a schoolsite
12 subject to this article shall annually complete a training provided
13 by the department or an agent authorized by the department. The
14 training shall include safe pesticide use and integrated pest
15 management.

16 SEC. 11. Section 13187 of the Food and Agricultural Code is
17 amended to read:

18 13187. Sections 13186 and 13186.5 shall not apply to any
19 agency signatory to a cooperative agreement with the State
20 Department of Public Health pursuant to Section 116180 of the
21 Health and Safety Code.

22 SEC. 12. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.